



June 22, 2006

TO: Transportation Authority of Marin Commissioners

FROM: Dianne Steinhauser

RE: Professional Services Agreement with the County of Marin for Accounting Services –  
Agenda Item 6g

Dear Commissioners:

**Executive Summary**

The County of Marin currently provides accounting services to TAM through the Department of Public Works. In conjunction with the County's implementation of a new MERIT (SAP) accounting system, TAM will become a subsidiary user of the SAP system and will execute an agreement to transfer to the Auditor-Controller's Office for the provision of accounting services.

**Recommendation: Authorize the Executive Director to execute the Professional Services Agreement with the County of Marin to provide accounting services for the amount not-to-exceed \$5,355 for Fiscal Year 06/07.**

TAM staff has held several meetings with Auditor-Controller staff and the MERIT team to determine how the County's new SAP system could support TAM's unique accounting and reporting needs. The attached Professional Services Agreement with the County establishes TAM as a subsidiary user of the SAP system and also provides for specific services to be provided for TAM by the Auditor-Controller's Office.

**Scope of Services**

The scope includes the provision of general accounting services to TAM, including accounting reports, accounts payable and accounts receivable services and general ledger maintenance. The scope also identifies TAM as a subsidiary user of the SAP system. The detailed scope of work is included as Exhibit "A" to the attached Professional Services Agreement.

**Budget**

This agreement provides funding in the amount of \$5,355 for the County of Marin for the fiscal year July 1, 2006 – June 30, 2007. The funding for this agreement will come from the 5% administration costs provided for in the Measure A expenditure plan.

**Schedule**

The term of this agreement is ongoing until termination by either party. Termination requires thirty days' written notice.

**Making the Most of Marin County Transportation Dollars**

**Recommendation**

Authorize the Executive Director to execute the Professional Services Agreement with the County of Marin to provide accounting services for the amount not-to-exceed \$5,355 for Fiscal Year 06/07.

Attachment: SAP Subsidiary Use Agreement, County Professional Services

**PROFESSIONAL SERVICES AGREEMENT  
BETWEEN TRANSPORTATION AUTHORITY OF MARIN AND THE COUNTY OF  
MARIN**

**THIS AGREEMENT** for Professional Services ("Agreement") is made and entered into on the date and for the terms set forth below, between the COUNTY OF MARIN, a political subdivision of the State of California ("County"), and Transportation Authority of Marin, Tax ID No. \_\_\_\_\_ ("Client").

WHEREAS, County is able and willing to provide professional services in support of various independent local agencies as an independent contractor to Client; and

WHEREAS, Client desires services, and is agreeable to all of the covenants, conditions, terms and rates set forth herein;

NOW, THEREFORE, in consideration of the mutual promises set out below, County and Client agree as follows:

**1.0 Agreement Term**

1.1 The period of this agreement shall commence on July 1st, 2006, and continue until the process as specified in section 11.0 of this agreement.

1.2 The parties may mutually agree in writing to extend the Agreement term.

1.3A If authorized and approved by County, the term of this Agreement may be extended for a time period to be specified by that extension. If Client does not agree to the extension as authorized by County, Client shall provide 30 days written notice before the Agreement term ends. Client will be deemed to have agreed to any County-approved extension of this Agreement if 30 days written notice is not tendered to County prior to the end of the Agreement term.

1.4 All references to the term of this Agreement or the Agreement term shall include any extensions or automatic renewals of the term.

**2.0 Authorized Representatives**

2.1 The County Auditor-Controller is the authorized representative for County and will administer this Agreement for County.

2.2 Dianne Steinhauser, the executive director, is the authorized representative for Client.

2.3 Changes in designated representatives shall occur only by advance written notice to the other party.

### **3.0 Services to be Performed**

3.1 See Exhibit "A" attached hereto and incorporated herein by reference for the scope of services to be provided under this agreement.

3.2 County shall devote such time to the performance of services pursuant to the Agreement as may be reasonably necessary for the satisfactory performance of County's obligations under this Agreement.

3.3 County shall maintain books, records, files, documents and other evidence directly pertinent to all work under this Agreement in accordance with accepted professional practice and procedures for a minimum of four years after termination of the agreement. Client, or any of its duly authorized representatives, shall have access to these books, records, files, documents and other evidence for purposes of inspection, evaluation, audit or copying.

### **4.0 Consideration**

4.1 Client shall pay the following rates to the professional services provided by County:

See Exhibit "B" attached hereto and incorporated herein by reference for the compensation to be paid to County under this agreement.

4.2 County shall provide Client with periodic invoices for payment of services under this Agreement.

### **5.0 Independent-Contractor Status**

5.1 It is expressly understood that in the performance of the services herein, County, and County agents and employees, shall act in an independent capacity as an independent contractor and not as officers, employees or agents of Client. County, and County's agents and employees are and at all times during the term of this Agreement shall represent and conduct themselves as independent contractors and not as employees of Client. This Agreement is not an agreement for employment, and shall not under any circumstances be construed or considered to create an employer-employee relationship, or joint venture. County shall be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding, Social Security, and Worker's Compensation.

5.2 If, in the performance of this agreement, any third persons are employed by County, such persons shall be entirely and exclusively under the direction, supervision, and control of County. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging, or any other term of employment or requirements of law shall be determined by County.

5.3 At all times during the term of this Agreement, County shall be responsible for County's own operating costs and expenses in connection with performance of services under this Agreement. Client shall have the right to control County only insofar as the results of County's services rendered under this Agreement. Client shall not have the right to control the means by which County accomplishes services rendered pursuant to this Agreement.

#### **6.0 Non-Assignability of Rights hereunder**

6.1 Client acknowledges and agrees that none of the rights or any of the privileges related to this agreement are assignable.

6.2 Any services, documentation or software provided pursuant to this agreement shall not be shared or otherwise distributed or made available to third parties not employed by Client.

#### **7.0 Amendment, Modification and Waiver**

7.1 No amendment, modification or waiver of any provision of this Agreement is effective unless made in writing, signed by all the parties, and then is effective only for the period, on the condition, and for the specific instance for which it is given.

7.2 A waiver by any party of any breach of any term, covenant or condition of this Agreement, or a waiver of any right or legal or equitable remedy available shall not be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition of the Agreement or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is in writing and signed by the waiving party.

#### **8.0 Insurance**

It is understood and agreed that the County, at the commencement of this Agreement, is self-insured up to \$250,000 per occurrence for third party liability and public officials errors and omissions claims. During the term of this Agreement and at its own cost and expense, and if

available in the insurance market, the County shall maintain in full force and effect a policy or policies of excess insurance insuring the County's activities with respect this Agreement. At the commencement of this Agreement, the excess liability and errors and omissions insurance program is written with the California State Association of Counties – Excess Insurance Authority (CSAC-EIA), a joint powers pool in operation since 1979.

## **9.0 Indemnification**

Each of the parties shall be solely liable for negligent or wrongful acts or omissions of its representatives, agents or employees occurring in the performance of this Agreement.

## **10.0 Special Indemnification Requirements relating to SAP Software License.**

10.1 Client shall indemnify, defend and hold harmless County, its agents, officers, representatives and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney's fees, for any and all liability created by Client's use of the SAP software provided by Auditor pursuant to the Subsidiary Use Agreement and the Software License Agreement, including but not limited to paragraph 2.2 ("Subsidiary Use") of the Software License Agreement appended hereto as Exhibit "C" and incorporated herein by this reference.

10.2 In the context of the above-referenced Software License Agreement, Client is regarded to be and is referenced as a "Subsidiary." The term "Subsidiary" as used in the Software License Agreement (hereinafter "SLA") appended as Exhibit "C" is used only to describe the relationship between the Client and the County, and the use of said term does not create any other legal relationship between the County and Client beyond that explicitly created by the SLA, Exhibit A, and this Professional Services Agreement.

10.3 The use of the term "Subsidiary" shall not be used to impose any liability, legal exposure, responsibilities, duties, relationships, or any other legal status on the independent contractor relationship between Client and County, except as expressly stated in the SLA.

10.4 Client shall execute and make duplicate three (3) originals available of "Exhibit D" on or before the commencement of services described in this agreement.

## **11.0 Termination**

Notwithstanding any other term or condition of this Agreement, either party may terminate this agreement upon thirty days written notice to the other party.

IN WITNESS WHEREOF, the parties hereto have entered into this Professional Services Agreement on \_\_\_\_\_.

"COUNTY"  
COUNTY OF MARIN

"CLIENT"  
\_\_\_\_\_ DISTRICT

By: \_\_\_\_\_  
PRESIDENT,  
BOARD OF SUPERVISORS

By: \_\_\_\_\_  
(Authorized Official)

Attest:

\_\_\_\_\_  
Ex-Officio Clerk of the Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
County Counsel

**EXHIBIT A**  
**SCOPE OF SERVICES**

The Auditor-Controller's Office will provide the following accounting services to  
**TRANSPORTATION AUTHORITY OF MARIN:**

- Assistance / Preparation of the following:
  - Trial Balance Reports
  - Revenue and Expenditure Detail Reports
  - Accounts payable
  - Accounts receivable
  - General Ledger maintenance

This scope specifically excludes the following:

- Preparation of annual financial statements.

**Client Duties**

Client staff will be required to provide the Auditor's Office with the following, or prepare the following:

1. Coding of vendor invoices.
2. Coding of vendor invoices with grant codes for proper grant.
3. Coding of deposits.
4. Coding of deposits with grant codes for proper grant.
5. Answers to questions that might arise during the normal course of business.
6. Documents supporting grants and borrowings; supporting documentation and explanations.
7. Any other documentation that might be needed to clarify issues.
8. Maintain records supporting vendor payments, deposits, and grant reimbursements, and any other necessary documentation generated by Client for the required length of time specified by grantor agencies. The Auditor's Office will also maintain a duplicate copy of vendor payments and deposits.
9. Prepare and sign invoices for payment or other grantor agencies as required.



**EXHIBIT B  
FEES AND PAYMENT SCHEDULE**

County will bill **TRANSPORTATION AUTHORITY OF MARIN** at an appropriate time interval (currently, a 12-month period coinciding with County's fiscal year calendar starting July 1<sup>st</sup> of each year and end on June 30<sup>th</sup> of the following year) for accounting services provided. The amount of billing for fiscal year 2006 – 2007 will be \$5,355.00.